
SUBSTITUTE HOUSE BILL 1300

State of Washington

68th Legislature

2023 Regular Session

By House Appropriations (originally sponsored by Representatives Orwall, Mosbrucker, Graham, Jacobsen, Lekanoff, Macri, and Reed)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to fraud in assisted reproduction; amending RCW
2 9A.36.031 and 18.130.180; creating new sections; prescribing
3 penalties; and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds it unconscionable
6 that health care providers or others may misrepresent the source of
7 the human reproductive material provided to assisted reproduction
8 patients. In such cases, false information leaves the children
9 conceived through assisted reproduction without accurate information
10 about their identity, family medical history, and true genetic
11 parentage.

12 **Sec. 2.** RCW 9A.36.031 and 2013 c 256 s 1 are each amended to
13 read as follows:

14 (1) A person is guilty of assault in the third degree if he or
15 she, under circumstances not amounting to assault in the first or
16 second degree:

17 (a) With intent to prevent or resist the execution of any lawful
18 process or mandate of any court officer or the lawful apprehension or
19 detention of himself, herself, or another person, assaults another;
20 or

1 (b) Assaults a person employed as a transit operator or driver,
2 the immediate supervisor of a transit operator or driver, a mechanic,
3 or a security officer, by a public or private transit company or a
4 contracted transit service provider, while that person is performing
5 his or her official duties at the time of the assault; or

6 (c) Assaults a school bus driver, the immediate supervisor of a
7 driver, a mechanic, or a security officer, employed by a school
8 district transportation service or a private company under contract
9 for transportation services with a school district, while the person
10 is performing his or her official duties at the time of the assault;
11 or

12 (d) With criminal negligence, causes bodily harm to another
13 person by means of a weapon or other instrument or thing likely to
14 produce bodily harm; or

15 (e) Assaults a firefighter or other employee of a fire
16 department, county fire marshal's office, county fire prevention
17 bureau, or fire protection district who was performing his or her
18 official duties at the time of the assault; or

19 (f) With criminal negligence, causes bodily harm accompanied by
20 substantial pain that extends for a period sufficient to cause
21 considerable suffering; or

22 (g) Assaults a law enforcement officer or other employee of a law
23 enforcement agency who was performing his or her official duties at
24 the time of the assault; or

25 (h) Assaults a peace officer with a projectile stun gun; or

26 (i) Assaults a nurse, physician, or health care provider who was
27 performing his or her nursing or health care duties at the time of
28 the assault. For purposes of this subsection: "Nurse" means a person
29 licensed under chapter 18.79 RCW; "physician" means a person licensed
30 under chapter 18.57 or 18.71 RCW; and "health care provider" means a
31 person certified under chapter 18.71 or 18.73 RCW who performs
32 emergency medical services or a person regulated under Title 18 RCW
33 and employed by, or contracting with, a hospital licensed under
34 chapter 70.41 RCW; or

35 (j) Assaults a judicial officer, court-related employee, county
36 clerk, or county clerk's employee, while that person is performing
37 his or her official duties at the time of the assault or as a result
38 of that person's employment within the judicial system. For purposes
39 of this subsection, "court-related employee" includes bailiffs, court
40 reporters, judicial assistants, court managers, court managers'

1 employees, and any other employee, regardless of title, who is
2 engaged in equivalent functions; or

3 (k) Assaults a person located in a courtroom, jury room, judge's
4 chamber, or any waiting area or corridor immediately adjacent to a
5 courtroom, jury room, or judge's chamber. This section shall apply
6 only: (i) During the times when a courtroom, jury room, or judge's
7 chamber is being used for judicial purposes during court proceedings;
8 and (ii) if signage was posted in compliance with RCW 2.28.200 at the
9 time of the assault; or

10 (l) Implants his or her gametes or reproductive material into a
11 patient without the patient's written consent. For the purposes of
12 this subsection, "gamete" means sperm, egg, or any part of a sperm or
13 egg, and "reproductive material" means a human gamete or a human
14 organism at any stage of development from fertilized ovum to embryo.

15 (2) Assault in the third degree is a class C felony.

16 **Sec. 3.** RCW 18.130.180 and 2021 c 157 s 7 are each amended to
17 read as follows:

18 The following conduct, acts, or conditions constitute
19 unprofessional conduct for any license holder under the jurisdiction
20 of this chapter:

21 (1) The commission of any act involving moral turpitude,
22 dishonesty, or corruption relating to the practice of the person's
23 profession, whether the act constitutes a crime or not. If the act
24 constitutes a crime, conviction in a criminal proceeding is not a
25 condition precedent to disciplinary action. Upon such a conviction,
26 however, the judgment and sentence is conclusive evidence at the
27 ensuing disciplinary hearing of the guilt of the license holder of
28 the crime described in the indictment or information, and of the
29 person's violation of the statute on which it is based. For the
30 purposes of this section, conviction includes all instances in which
31 a plea of guilty or nolo contendere is the basis for the conviction
32 and all proceedings in which the sentence has been deferred or
33 suspended. Nothing in this section abrogates rights guaranteed under
34 chapter 9.96A RCW;

35 (2) Misrepresentation or concealment of a material fact in
36 obtaining a license or in reinstatement thereof;

37 (3) All advertising which is false, fraudulent, or misleading;

38 (4) Incompetence, negligence, or malpractice which results in
39 injury to a patient or which creates an unreasonable risk that a

1 patient may be harmed. The use of a nontraditional treatment by
2 itself shall not constitute unprofessional conduct, provided that it
3 does not result in injury to a patient or create an unreasonable risk
4 that a patient may be harmed;

5 (5) Suspension, revocation, or restriction of the individual's
6 license to practice any health care profession by competent authority
7 in any state, federal, or foreign jurisdiction, a certified copy of
8 the order, stipulation, or agreement being conclusive evidence of the
9 revocation, suspension, or restriction;

10 (6) Except when authorized by RCW 18.130.345, the possession,
11 use, prescription for use, or distribution of controlled substances
12 or legend drugs in any way other than for legitimate or therapeutic
13 purposes, diversion of controlled substances or legend drugs, the
14 violation of any drug law, or prescribing controlled substances for
15 oneself;

16 (7) Violation of any state or federal statute or administrative
17 rule regulating the profession in question, including any statute or
18 rule defining or establishing standards of patient care or
19 professional conduct or practice;

20 (8) Failure to cooperate with the disciplining authority by:

21 (a) Not furnishing any papers, documents, records, or other
22 items;

23 (b) Not furnishing in writing a full and complete explanation
24 covering the matter contained in the complaint filed with the
25 disciplining authority;

26 (c) Not responding to subpoenas issued by the disciplining
27 authority, whether or not the recipient of the subpoena is the
28 accused in the proceeding; or

29 (d) Not providing reasonable and timely access for authorized
30 representatives of the disciplining authority seeking to perform
31 practice reviews at facilities utilized by the license holder;

32 (9) Failure to comply with an order issued by the disciplining
33 authority or a stipulation for informal disposition entered into with
34 the disciplining authority;

35 (10) Aiding or abetting an unlicensed person to practice when a
36 license is required;

37 (11) Violations of rules established by any health agency;

38 (12) Practice beyond the scope of practice as defined by law or
39 rule;

1 (13) Misrepresentation or fraud in any aspect of the conduct of
2 the business or profession;

3 (14) Failure to adequately supervise auxiliary staff to the
4 extent that the consumer's health or safety is at risk;

5 (15) Engaging in a profession involving contact with the public
6 while suffering from a contagious or infectious disease involving
7 serious risk to public health;

8 (16) Promotion for personal gain of any unnecessary or
9 inefficacious drug, device, treatment, procedure, or service;

10 (17) Conviction of any gross misdemeanor or felony relating to
11 the practice of the person's profession. For the purposes of this
12 subsection, conviction includes all instances in which a plea of
13 guilty or nolo contendere is the basis for conviction and all
14 proceedings in which the sentence has been deferred or suspended.
15 Nothing in this section abrogates rights guaranteed under chapter
16 9.96A RCW;

17 (18) The procuring, or aiding or abetting in procuring, a
18 criminal abortion;

19 (19) The offering, undertaking, or agreeing to cure or treat
20 disease by a secret method, procedure, treatment, or medicine, or the
21 treating, operating, or prescribing for any health condition by a
22 method, means, or procedure which the licensee refuses to divulge
23 upon demand of the disciplining authority;

24 (20) The willful betrayal of a practitioner-patient privilege as
25 recognized by law;

26 (21) Violation of chapter 19.68 RCW or a pattern of violations of
27 RCW 41.05.700(8), 48.43.735(8), 48.49.020, 48.49.030, 71.24.335(8),
28 or 74.09.325(8);

29 (22) Interference with an investigation or disciplinary
30 proceeding by willful misrepresentation of facts before the
31 disciplining authority or its authorized representative, or by the
32 use of threats or harassment against any patient or witness to
33 prevent them from providing evidence in a disciplinary proceeding or
34 any other legal action, or by the use of financial inducements to any
35 patient or witness to prevent or attempt to prevent him or her from
36 providing evidence in a disciplinary proceeding;

37 (23) Current misuse of:

38 (a) Alcohol;

39 (b) Controlled substances; or

40 (c) Legend drugs;

1 (24) Abuse of a client or patient or sexual contact with a client
2 or patient;

3 (25) Acceptance of more than a nominal gratuity, hospitality, or
4 subsidy offered by a representative or vendor of medical or health-
5 related products or services intended for patients, in contemplation
6 of a sale or for use in research publishable in professional
7 journals, where a conflict of interest is presented, as defined by
8 rules of the disciplining authority, in consultation with the
9 department, based on recognized professional ethical standards;

10 (26) Violation of RCW 18.130.420;

11 (27) Performing conversion therapy on a patient under age
12 eighteen;

13 (28) Violation of RCW 18.130.430; or

14 (29) Committing the crime of assault in the third degree by
15 implanting the license holder's own gametes or reproductive material
16 into a patient without the patient's written consent as described
17 under RCW 9A.36.031(1).

18 NEW SECTION. Sec. 4. (1) By August 1, 2023, and within existing
19 resources, the department of health must convene a work group of
20 stakeholders to evaluate the issue of fraud in assisted reproduction
21 in Washington and make recommendations to the governor and the
22 appropriate committees of the legislature for addressing fraud in
23 assisted reproduction.

24 (2) The work group must, at minimum, consist of stakeholders
25 representing each of the following:

26 (a) The Washington association of prosecuting attorneys;

27 (b) Victims of crimes related to fraud in assisted reproduction;

28 (c) Health care providers;

29 (d) Fertility clinics;

30 (e) Gamete banks; and

31 (f) Any other entities that the department of health determines
32 should participate in the work group.

33 (3) After being convened, the work group must continue to meet at
34 least once every two months to evaluate and make recommendations
35 related to the following subjects:

36 (a) Conduct that may constitute fraud in assisted reproduction;

37 (b) Whether particular forms of fraud in assisted reproduction
38 should be subject to increased regulation and enforcement, including
39 consideration of whether to:

1 (i) Expand related professional disciplinary actions;
2 (ii) Expand related criminal penalties;
3 (iii) Provide additional civil causes of action or remedies to
4 donors and patients who are harmed;
5 (iv) Extend related statutes of limitations; and
6 (v) Make any other relevant changes to support effective
7 regulation and enforcement;
8 (c) Whether certain information about the identity and background
9 of donors should be protected or shared, and with whom that
10 information should be protected from or shared with;
11 (d) Whether to allow or prohibit anonymous donations;
12 (e) Whether there should be any limits on how frequently the same
13 person may provide donations of reproductive material;
14 (f) Current regulations on assisted reproduction services offered
15 by health care providers, fertility clinics, and gamete banks in
16 Washington, including existing enforcement mechanisms;
17 (g) Approaches other jurisdictions have undertaken to address
18 fraud in assisted reproduction, including any legislative efforts to
19 address fraud in assisted reproduction in those jurisdictions;
20 (h) Resources for victims of fraud in assisted reproduction; and
21 (i) Any other relevant factors or considerations.
22 (4) The department of health must issue a final report containing
23 the work group's findings and recommendations to the governor and the
24 appropriate committees of the legislature by October 1, 2024.
25 (5) This section expires January 1, 2025.

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